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**WEST VALLEY CITY, UTAH**

**ORDINANCE NO. 08-43**

Draft Date: 8/12/2008  
Date Adopted: \_\_\_\_\_  
Date Effective: \_\_\_\_\_

**AN ORDINANCE TO AMEND SECTION 17-1-101 AND REPEAL  
AND REENACT CHAPTER 17-22 OF TITLE 17 OF THE WEST  
VALLEY CITY MUNICIPAL CODE REGARDING SOLICITING.**

**WHEREAS**, West Valley City desires to amend Section 17-1-101 and repeal and reenact Chapter 17-22 of Title 17 of the West Valley City Municipal Code in order to provide rules, regulations and standards related soliciting so that the regulations would be placed in an appropriate location in the Code; and

**WHEREAS**, state and local governments have a substantial and legitimate interest in protecting citizens from intrusions upon citizens' Residential privacy, consumer fraud, and deceptive, high-pressure, factually unbalanced, or otherwise unfair consumer sales practices; and

**WHEREAS**, religious, political, and other noncommercial speech involving the dissemination of ideas enjoys greater constitutional protection than does commercial speech that merely proposes an economic transaction; and

**WHEREAS**, local government police power interests are generally entitled to more weight relative to individual Speech Clause rights when balanced against commercial speech than against religious, political, and other noncommercial speech involving the dissemination of ideas; and

**WHEREAS**, the Police Department/Department of Public Safety of the City (hereinafter, the "Department") has investigated complaints and problems relating to Residential Solicitation within the City, including the following within the last three years:

**Theft:** the vast majority of the complaints related to theft primarily where the solicitor had access inside the residence. Other reports of theft indicated that solicitors attempted to sell property they had stolen from residents;

**Harassment:** several reports indicated that solicitors peeked in windows and used other aggressive means, including written and verbal threats of violence, to intimidate consumers into answering the door and/or buying their products; and

**WHEREAS**, based upon such investigation the Department has concluded that commercial door-to-door Solicitation within the City has resulted in intrusions upon Residential privacy, consumer fraud, and unfair or aggressive consumer sales practices, and that there is a likelihood that this type of conduct arising out of commercial Residential Solicitation would continue to occur, unless the City takes certain steps to regulate commercial Residential Solicitation; and

**WHEREAS**, it is the opinion of the Chief of Police that such problems could be eliminated, mitigated, or otherwise controlled by an ordinance governing

Residential Solicitation; and

**WHEREAS**, the State of Utah has provided for the comprehensive regulation of most forms of charitable Solicitation pursuant to the Utah Charitable Solicitations Act, Utah Code Ann. §13-22-1 et seq., thereby making such regulation to prevent consumer fraud and unfair consumer sales practices unnecessary in case of charitable door-to-door Residential Solicitation; and

**WHEREAS**, commercial Residential Solicitation generally represents a greater intrusion upon Residential privacy than political, religious, or other noncommercial door-to-door Solicitation involving the dissemination of ideas; and

**WHEREAS**, commercial Residential Solicitation generally entails a higher incidence of consumer fraud and unfair sales practices than political, religious, or other noncommercial door-to-door Solicitation involving the dissemination of ideas; and

**WHEREAS**, because commercial Residential Solicitation (a) involves the attempt to complete an economic transaction with the hearer, and (b) often includes aggressive, deceptive, factually unbalanced, or otherwise unfair tactics in an effort to complete an economic transaction, commercial Residential Solicitation entails exceptional risks of intrusion upon Residential privacy, consumer fraud, and unfair consumer sales practices, albeit by a minority of those engaged in this business; and

**WHEREAS**, because noncommercial Residential Solicitation generally does not involve the attempt to complete an economic transaction with the hearer, such Solicitation presents a diminished risk of use of aggressive, deceptive, factually unbalanced, or otherwise unfair tactics in comparison to commercial Solicitation; and

**WHEREAS**, the elderly, the poor, and the less educated are particularly vulnerable to consumer fraud and unfair consumer sales practices by commercial Residential Solicitors; and

**WHEREAS**, consumer fraud and deceptive, high-pressure, factually unbalanced, or otherwise unfair consumer sales practices are significantly less frequent in case of charitable Solicitation and Solicitation occurring as an incident to political, religious, and other noncommercial speech; and

**WHEREAS**, the average amount of money paid by a Resident in a charitable Solicitation or incident to political, religious, or other noncommercial speech is generally less, and often substantially less, than the amount of money paid by a Resident in a transaction arising out of commercial Residential Solicitation; and

**WHEREAS**, the transient nature of the business of Residential Solicitation makes it difficult to prosecute or to obtain redress for intrusions upon Residential privacy and fraudulent or otherwise unfair consumer sales practices by Residential Solicitors, because such Solicitors are often non-Residents of the City and often leave the City immediately upon completion of their commercial Residential Solicitation; and

**WHEREAS**, many companies that employ commercial Residential Solicitors do not conduct accurate, thorough and timely criminal background checks on prospective Solicitors; and

**WHEREAS**, the City wishes to reassure Residents to the extent reasonably possible consistent with the First Amendment that the commercial Residential Solicitors who work within the City have not been the subject of criminal actions, consumer protection actions, or other legal orders or actions reasonably related to the risk of such Solicitors' intruding upon Residential privacy or committing

consumer fraud or other unfair consumer sales practices, by instituting a Registration procedure for commercial Residential Solicitors; and

**WHEREAS**, the limited law enforcement resources of the City make it impracticable for it to investigate and prosecute consumer fraud actions involving losses of less than \$500, and consumer losses of \$500 or less generally do not entail significant consumer hardship; and

**WHEREAS**, substantial numbers of City Residents do not desire to listen to or otherwise receive commercial Solicitations; and,

**WHEREAS**, the ordinance set forth herein directly advances the City's interest in protecting its citizens from intrusions upon Residential privacy, consumer fraud, and other unfair consumer sales practices; and,

**WHEREAS**, based upon the foregoing information the Council finds that the potential and actual harm to citizens from Residential Solicitation is real, and that the provisions hereinafter set forth will in fact to a material degree alleviate and avoid such harm; and,

**WHEREAS**, the City Council has examined alternative means and methods of regulating door-to-door Solicitation, including the following:

(a) A total ban on all Residential Solicitation; and

(b) A total ban on all commercial Residential Solicitation;

and has concluded that such alternatives would not adequately protect the City's substantial interests in protecting Residents from consumer fraud and other unfair consumer sales practices in a manner that is consistent with the protection afforded commercial speech under the First Amendment; and

**WHEREAS**, the City Council has determined that the means chosen as hereinafter set forth are reasonable and narrowly and reasonably tailored to achieve the desired objective of protecting citizens from intrusions upon Residential privacy, consumer fraud, and unfair consumer sales practices, while preserving the rights of others to engage in commercial speech that enjoys certain protection under the First Amendment to the United States Constitution and corresponding state constitutional counterparts; and,

**WHEREAS**, commercial Residential Solicitors have a broad range of options available to them within West Valley City to gain invitations and audiences with owners and occupants of private Residential property for the purpose of demonstrating their wares and making sales, including advertising for invitations by methods such as radio, television, newspapers, newspaper inserts, billboards, telephone Solicitation, facsimile machines, internet web sites, e-mail, U.S. mail and direct mailing, word-of-mouth, contests of various types, advertising on bus benches, advertisements on moving buses or taxi cabs, yellow pages, Welcome-Wagon type services and public displays at fairs, carnivals and games, to name non-exclusive alternatives available to solicitors other than door-to-door Soliciting; and,

**WHEREAS**, nothing contained in the following adopted provisions prohibits commercial Residential Solicitation and home sales, which are authorized and permitted in accordance with the following provisions which reasonably regulate the time, place and manner in which home sales can be Solicited without regard to the item being sold or the commercial viewpoints expressed in connection with such sales; and,

**WHEREAS**, the City Council finds that it is in the best interests of the Residents of the City to adopt provisions regulating door-to-door commercial Residential Solicitation in the manner hereinafter set forth; and,

**WHEREAS**, the regulations adopted herein are narrowly drawn and in the judgment of the City Council are not more extensive or expansive than necessary to serve and protect the interests stated; and,

**WHEREAS,** the City Council of West Valley City, Utah, hereby determines that it is in the best interest of the health, safety and welfare of the citizens of West Valley City to amend Section 17-1-101 and repeal and reenact Chapter 17-22 of Title 17 of the West Valley City Municipal Code regarding Soliciting;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of West Valley City, Utah, as follows:

**Section 1. Repealer.** Any provision of the West Valley City Code found to be in conflict with this Ordinance is hereby repealed.

**~~CHAPTER 17-22~~**  
**~~SOLICITORS, PEDDLERS, VENDORS, AND~~**  
**~~TEMPORARY BUSINESSES~~**

~~Sections:~~

~~17 22 101. Permit Requirements and Exemptions.~~

~~17 22 102. Permit for Sponsoring Juvenile Peddlers.~~

~~17-22-103. Permit Application.~~

~~17-22-104. Fees.~~

~~17-22-105.~~ Bond.

~~17 22 106. Application Review and Permit Issuance.~~

~~17-22-107. Denial of Permit.~~

~~17-22-108. Permit Expiration.~~

~~17 22 109. Police Work Card Required.~~

~~17-22-110. Permit Exhibition.~~

~~17-22-111. Transfer Prohibited.~~

~~17 22 112. Entry Upon Signed Premises Unlawful.~~

~~17-22-113. Hours of Solicitation.~~

~~17-22-114. Permit Revocation.~~

~~17-22-115. Appeals.~~

~~17-22-116. Claims of Exemption.~~

~~17-22-200P~~      ~~Part 2~~      ~~Vendors~~

~~17 22 201. Purpose and Intent.~~

~~17-22-202. License Required.~~

~~17-22-203. Application for License.~~

~~17-22-204.~~ **Health Inspection Certificate.**

~~17-22-205. Issuance of License.~~

~~17-22-206. License Fees.~~

~~17 22 207. Display of Work Cards and Other Permits.~~

~~17 22 208. Notification of Name or Address Change.~~

~~17-22-209. Exemptions.~~

~~17-22-210. Claims of Exemption.~~

~~17-22-211. Hours of Operation.~~

~~17-22-212. Littering and Trash Removal.~~  
~~17-22-213. Vending Restrictions.~~  
~~17-22-214. Prohibited Conduct.~~  
~~17-22-215. Use of Public Streets.~~  
~~17-22-216. Suspension and Revocation of License.~~  
~~17-22-217. Appeals.~~  
~~17-22-218. Renewals.~~  
~~17-22-219. Construction.~~  
~~17-22-300P Part 3 Temporary Businesses~~  
~~17-22-301. License Required.~~  
~~17-22-302. License Fee.~~  
~~17-22-303. Participant License Required.~~  
~~17-22-304. Participant License Fee.~~  
~~17-22-305. Temporary Business Sponsor License Required.~~  
~~17-22-306. Temporary Business Sponsor License Fee.~~  
~~17-22-307. Information required for participation in sales events.~~  
~~17-22-308. Determination of Status Appeals.~~  
~~17-22-309. Each sale without a license separate offense.~~  
~~17-22-310. Bond.~~  
~~17-22-400P Part 4 Aggressive Solicitation~~  
~~17-22-401. Definitions.~~  
~~17-22-402 Prohibited Acts.~~

#### **~~17-22-101. PERMIT REQUIREMENTS AND EXEMPTIONS.~~**

~~— It shall be unlawful for any person 18 years of age or older to engage in peddling or solicitation activities within West Valley City without first obtaining a permit issued by the Business License Division; provided, however, that the following are exempted from the provisions of this Section:~~  
~~— (1) Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made;~~  
~~— (2) Any communication by an organization soliciting contributions solely from persons who are members of the organization at the time of such solicitation;~~  
~~— (3) Any solicitation in the form of a collection at a regular meeting, assembly, or service of a charitable person; or~~  
~~— (4) Any solicitation for the relief of any person specified by name at the time of the solicitation, where the solicitor represents in each case that the entire amount collected shall be turned over to the named beneficiary.~~

#### **~~17-22-102. PERMIT FOR SPONSORING JUVENILE PEDDLERS.~~**

~~— (1) No person under the age of 18 shall be permitted to engage in peddling, except as provided in this Section.~~  
~~— (2) A permit shall be obtained by a sponsoring person, company, or organization for the conduct of any peddling or solicitation activities involving, in whole or in part, a sales force of one or more persons under 18 years of age.~~  
~~— (3) The sponsor shall be responsible for supervising and controlling the conduct of all persons, including juveniles, peddling under the sponsor's permit.~~  
~~— (4) The sponsor shall provide to each individual in its sales force a badge or other easily readable form of identification, which identifies the name of the sponsor and the name of the individual. The sponsor shall require all individuals in its sales force to wear such identification so that it is clearly visible at all times when the individuals are peddling or soliciting.~~

**~~17-22-103. PERMIT APPLICATION.~~**

~~— Every person subject to the provisions of this Chapter shall file with the Business License Division an application, in writing, on a form to be furnished by the Division, which shall provide the following information:~~

~~— (1) — Proof of age, address, and identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation (for sponsors), or other legally recognized form of identification;~~

~~— (2) — A brief description of the business or activity to be conducted;~~

~~— (3) — The hours and location for which the right to peddle or solicit is desired;~~

~~— (4) — If employed, the name, address, and telephone number of the employer; or if acting as an agent, the name, address, and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be;~~

~~— (5) — A statement as to whether or not the applicant has been convicted of a felony, misdemeanor, or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof; and~~

~~— (6) — Proof of possession of any license or permit that, under federal, state, or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or that, under any such law or regulation, would exempt the applicant from the licensing requirements of this Chapter.~~

**~~17-22-104. FEES.~~**

~~— At the time the application is filed with the Division, the applicant shall pay to the City a fee to cover the City's costs of processing the application and investigating the facts stated therein. The permit fee shall be as stated in the Consolidated Fee Schedule.~~

**~~17-22-105. BOND.~~**

~~— All solicitors who require cash deposits or take orders for cash on delivery (C.O.D.) purchases, or who require a contract of agreement to finance the sale of any goods, services, or merchandise for future delivery or services to be performed in the future, shall furnish to the Division a bond in the amount of \$15,000.~~

**~~17-22-106. APPLICATION REVIEW AND PERMIT ISSUANCE.~~**

~~— (1) — Upon receipt of an application, the Director shall review the application as deemed necessary to ensure the protection of the public health, safety, and general welfare.~~

~~— (2) — If the Director finds the application to be satisfactory, the Director shall endorse his/her approval on the application and shall, upon payment of the prescribed fee, deliver the required permit to the applicant.~~

~~— (3) — The permit shall show the name and address of the permittee, the class of permit issued, the kind of goods or services to be sold or delivered, the date of issuance, and the length of time that the permit shall be in effect. The permit shall also show the permit number and identifying description of any vehicle to be used in carrying on the business for which the permit is issued.~~

~~— (4) — The Division, for a period of two years, shall maintain a record of all permits issued.~~

**~~17-22-107. DENIAL OF PERMIT.~~**

~~— (1) — Upon review of the application, the Director may refuse to issue a permit to the applicant under this Chapter for any of the following reasons:~~

~~— (a) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers, or their customers;~~

~~— (b) An investigation reveals that the applicant falsified information on the application;~~

~~— (c) The applicant has been convicted of a felony, misdemeanor, or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five years preceding the date of application;~~

~~— (d) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit, or misrepresentation has been entered within the five years immediately preceding the date of application;~~

~~— (e) There is no proof as to the authority of the applicant to serve as an agent to the principal indicated in the application; or~~

~~— (f) The applicant has been denied a permit under this Chapter within the immediately past year, unless the applicant can and does show to the satisfaction of the Director that the reasons for such earlier denial no longer exist.~~

~~— (2) — The Director's disapproval and the reasons for disapproval shall be noted on the application, and the applicant shall be notified that the application is disapproved and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form or at the applicant's last known address.~~

#### **~~17-22-108. PERMIT EXPIRATION.~~**

~~— All permits issued under the provisions of this Chapter shall expire one year from the date of issuance, unless an earlier expiration date is noted on the permit.~~

#### **~~17-22-109. POLICE WORK CARD REQUIRED.~~**

~~— At the time the permit is issued, each permittee shall obtain a work card from the Police Department, which shall be worn by the permittee in such a way as to be conspicuous at all times while the permittee is soliciting or peddling in the City. The applicant shall pay the fee for the work card, as established in the Consolidated Fee Schedule, in addition to any application fees for the permit.~~

#### **~~17-22-110. PERMIT EXHIBITION.~~**

~~— Every person required to obtain a permit under the provisions of this Chapter shall exhibit the permit when requested to do so by any prospective customer, Police Officer, or employee of the Business License Division.~~

#### **~~17-22-111. TRANSFER PROHIBITED.~~**

~~— It shall be unlawful for any person other than the permittee to use or wear any permit or badge issued under the provisions of this Chapter.~~

#### **~~17-22-112. ENTRY UPON SIGNED PREMISES UNLAWFUL.~~**

~~— It shall be unlawful for any person, whether licensed or unlicensed, while conducting the business of a peddler or solicitor, including charitable solicitations, to enter upon any residential premises in the City where the owner, occupant, or person legally in charge of the premises has posted, at the entry to the premises or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers,"~~

~~"No Solicitors," or words of similar import.~~

~~**17-22-113. HOURS OF SOLICITATION.**~~

~~— No person, while conducting the activities of a peddler or solicitor, whether licensed or unlicensed, including charitable solicitations, shall enter upon any private property, knock on doors, or otherwise disturb persons in their residences between the hours of 9 p.m. and 9 a.m.~~

~~**17-22-114. PERMIT REVOCATION.**~~

~~— Any permit issued under this Chapter may be revoked or suspended by the Business License Division for any of the following reasons:~~

~~— (1) — Fraud, misrepresentation, or false statement contained in the application for a permit;~~

~~— (2) — Fraud, misrepresentation, or false statement made by the permittee in the course of conducting solicitation or peddling activities;~~

~~— (3) — The conduct of peddling or solicitation activities contrary to the provisions contained in the permit;~~

~~— (4) — Conviction for any crime involving moral turpitude; or~~

~~— (5) — The conduct of peddling or solicitation activities in such a manner as to create a public nuisance; constitute a breach of the peace; or endanger the health, safety, or general welfare of the public.~~

~~**17-22-115. APPEALS.**~~

~~— A permittee whose permit is revoked, suspended, or denied may appeal to the License Hearing Board. The Appeals Procedure shall be as provided in Section 17-3-106 of the West Valley City Code.~~

~~**17-22-116. CLAIMS OF EXEMPTION.**~~

~~— Any person claiming to be legally exempt from the regulations set forth in this Chapter, or from the payment of a permit fee, shall cite to the Division the statute or other legal authority under which exemption is claimed and shall present to the Director proof of qualification for such exemption.~~

~~**17-22-200 PART 2 — VENDORS**~~

~~**17-22-201. PURPOSE AND INTENT.**~~

~~— It is the intent of this Chapter:~~

~~— (1) — To serve and protect the health, safety, and welfare of the general public;~~

~~— (2) — To establish a uniform set of rules and regulations that are fair and equitable; and~~

~~— (3) — To enhance the overall safety, appearance, and environment along public streets, pedestrian ways, and other public properties.~~

~~**17-22-202. LICENSE REQUIRED.**~~

~~— It shall be unlawful for any person to engage in the business of vending unless he/she has first obtained a license from the Business License Division. All licenses shall be issued according to regulations established by the Division.~~

~~**17-22-203. APPLICATION FOR LICENSE.**~~

~~— The application for a vending license shall contain all information relevant and necessary to~~



determine whether a particular license may be issued, including, but not limited to:

— (1) — The applicant's full name, current address, telephone number, and proof of identity;

— (2) — A brief description of the nature, character, and quality of goods, wares, or merchandise to be offered for sale;

— (3) — The specific location, if any, in which the vendor intends to conduct business;

— (4) — If the applicant is employed by another, the name and address of the person, firm, association, organization, company, or corporation; and

— (5) — If a motor vehicle is to be used, a description of the vehicle, together with the motor vehicle registration number and license number.

#### **~~17-22-204. HEALTH INSPECTION CERTIFICATE.~~**

— Any application for a vending license to engage in the sale of food or beverages shall require a health permit from Salt Lake County in addition to the regular vending license. The applicant's equipment shall be subject to inspections by the County Health Department at the time of application and at periodic intervals thereafter.

#### **~~17-22-205. ISSUANCE OF LICENSE.~~**

— (1) — The Director shall notify the applicant in writing of the City's decision to issue or deny the vending license, not later than thirty 30 days after the applicant has filed a completed application with the Division. Any applicant for a license to sell food and beverages, whose application receives the approval of the county health department, shall be issued both a vending license and a health permit.

— (2) — Each license shall show the name and address of the licensee, the type of license issued, the kind of goods to be sold, the amount of the license fee, the date of issuance, the license number, an identifying description of any vehicle or conveyance used by the licensee plus, where applicable, the motor vehicle registration number. Each license shall also show the expiration date of the license and the vendor's plate number issued by the City.

— (3) — In addition to the vending license and any other permit required by this Chapter, the applicant shall obtain a work card from the Police Department. The applicant shall pay the fee for the work card as established in the Consolidated Fee Schedule, in addition to any application fees for the permit.

— (4) — All licenses, permits, and work cards issued pursuant to this Part are valid for one year, unless suspended or revoked, and shall be both non-assignable and non-transferable.

#### **~~17-22-206. LICENSE FEES.~~**

— Any vendor granted a vending license under this Chapter shall pay the annual license fee established in the Consolidated Fee Schedule.

#### **~~17-22-207. DISPLAY OF WORK CARDS AND OTHER PERMITS.~~**

— (1) — Any license or permit issued by the Division shall be carried with the licensee whenever he/she is engaged in vending. Work cards and health permits shall also be properly and conspicuously displayed at all times during the operation of the vending business.

— (2) — A work card shall be deemed to be properly displayed when it is attached to the outer garment of the vendor and clearly visible to the public and law enforcement officials. A health permit shall be deemed to be properly displayed when attached to the vending pushcart, vehicle, stand, or other conveyance and clearly visible to the public and law enforcement officials.

#### **~~17-22-208. NOTIFICATION OF NAME OR ADDRESS CHANGE.~~**

— All vendors shall assure that a current and correct name, residence address, and mailing address are on file with the Business License Division. Whenever the name or address provided by a licensed vendor on his/her application for a vending license changes, the licensee shall notify the Director in writing within 14 days of such change and provide the same with the name change or address change.

#### **~~17-22-209. EXEMPTIONS.~~**

— The provisions of this Part do not apply to:

— (1) — Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment, or transfer;

— (2) — The placing and maintenance of unattended stands or sales devices for the sale, display, or offering for sale of newspapers, magazines, periodicals, and paperbound books; or

— (3) — The distribution of free samples of goods, wares, and merchandise by any individual from his/her person.

#### **~~17-22-210. CLAIMS OF EXEMPTION.~~**

— Any person claiming to be legally exempt from the regulations set forth in this Part or from the payment of a license fee shall cite to the Director the statute or other legal authority under which exemption is claimed and shall present to the Director proof of qualification for such exemption.

#### **~~17-22-211. HOURS OF OPERATION.~~**

— Vendors shall be allowed to engage in the business of vending only between the hours of 8 a.m. and 9 p.m.; except, on school days, vendors shall be allowed to engage in the business of vending between the hours of 8 a.m. and 4 p.m., only if vending at least two blocks from churches, playgrounds, and schools. No vending station, conveyance, or other item related to the operation of a vending business shall be located on any city sidewalk or other public way during non-vending hours. No vehicle shall be parked, stored, or left overnight, other than in a lawful parking place.

#### **~~17-22-212. LITTERING AND TRASH REMOVAL.~~**

— (1) — Vendors shall keep the sidewalks, roadways, and other spaces adjacent to their vending sites or locations clean and free of paper, peelings, and refuse of any kind generated from the operation of their businesses. All trash or debris accumulating within 25 feet of any vending stand shall be collected by the vendor and deposited in a trash container.

— (2) — Persons engaged in food vending shall affix to their vending station, vehicle, pusheart, or other conveyance a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter.

#### **~~17-22-213. VENDING RESTRICTIONS.~~**

— No vendor shall be permitted to operate in the following areas of public space:

— (1) — Within 150 feet of any street intersection or pedestrian crosswalk.

— (2) — Within 50 feet of any driveway, loading zone, or bus stop.

— (3) — Within 50 feet of another vending location assigned to another vendor on a public sidewalk.

— (4) — Within a minimum of 25 feet of unobstructed pedestrian space.

— (5) — In any area within 300 feet of a building entrance or exit, or, in the case of a hotel or motel, within 250 feet of building entrances or exits.

— (6) — On the median strip of a divided roadway, unless the strip is intended for use as a public way, pedestrian mall, or plaza.

- ~~— (7) — Against display windows of fixed location businesses.~~  
~~— (8) — Any area within two blocks of a hospital, college, university, elementary school, middle school, or high school.~~  
~~— (9) — Within 50 feet of any fire hydrant or fire escape. No vending is allowed in a designated fire zone.~~  
~~— (10) — Within 25 feet of any parking space or access ramp designated for persons with disabilities.~~  
~~— (11) — Within any parking area, unless a portion of the parking area is blocked off by the property owner expressly for the use of vending, and the vending location otherwise complies with the distance limitations imposed by this Section.~~

#### **~~17-22-214. PROHIBITED CONDUCT.~~**

- ~~— No person authorized to engage in the business of vending under this Chapter shall do any of the following:~~  
~~— (1) — Unduly obstruct pedestrian or motor vehicle traffic flow.~~  
~~— (2) — Obstruct traffic signals or regulatory signs.~~  
~~— (3) — Stop, stand, or park any vehicle, pusheart, or any other conveyance upon any street for the purpose of selling during the hours when stopping, standing, and parking have been prohibited by signs or curb markings.~~  
~~— (4) — Leave any conveyance unattended at any time, or store, park, or leave such conveyance in a public space overnight.~~  
~~— (5) — Use a handcart or pusheart whose dimensions exceed four feet in width, six feet in length, and seven feet in height.~~  
~~— (6) — Use any stand or other fixed location conveyance whose dimensions exceed five feet in width, eight feet in length, and seven feet in height.~~  
~~— (7) — Use any conveyance that, when fully loaded with merchandise, cannot be easily moved and maintained under control by the licensee, the licensee's employee, or an attendant.~~  
~~— (8) — Sell any goods, wares, or merchandise within the right of way of public streets in a commercial or manufacturing zone; or within 200 feet of the boundary of a commercial or manufacturing zone; or in the right of way of arterial streets that have been, or shall be hereafter, so designated by the City.~~  
~~— (9) — Sound any device that produces a loud and raucous noise, or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention, or otherwise violate Chapter 24-22 of the City Code, "Noise Control."~~  
~~— (10) — Conduct his/her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant; create a nuisance; increase traffic congestion or delay; constitute a hazard to traffic, life, or property; or obstruct adequate access to emergency and sanitation vehicles.~~  
~~— (11) — Conduct business on private residential property.~~  
~~— (12) — Conduct business on private commercial property, without the express written consent of the property owner.~~  
~~— (a) The written consent shall state the areas of the private property where business may be conducted.~~  
~~— (b) Written consent is required to obtain a license under Section 17-22-203.~~  
~~— (c) A person conducting business on private property must comply with this Part, in addition to any restrictions imposed by the private property owner.~~

#### **~~17-22-215. USE OF PUBLIC STREETS.~~**

- ~~— (1) — It shall be unlawful to sell, offer to sell, or display for sale retail merchandise from or on motorized vehicles on public streets without a valid business license and except as authorized by this~~

562 Title.

563 ~~— (2) — Each person or business selling, offering to sell, or displaying for sale retail merchandise~~  
564 ~~from or on motorized vehicles on public streets shall abide by the following conditions and requirements.~~  
565 ~~Failure to comply may result in the suspension or revocation of a business license or Police work card,~~  
566 ~~and is a class B misdemeanor:~~

567 ~~— (a) The motorized vehicle shall have a clearly audible backup warning device that activates~~  
568 ~~whenever the vehicle is shifted into reverse gear.~~

569 ~~— (b) The motorized vehicle shall have a convex mirror mounted on the front of the vehicle so~~  
570 ~~that the driver, in a normal driving position, can see the area in front of the vehicle that is~~  
571 ~~obscured by the hood.~~

572 ~~— (c) The motorized vehicle shall have a flashing yellow beacon on the roof of the vehicle that~~  
573 ~~is visible from all sides of the vehicle. This beacon shall be activated whenever merchandise~~  
574 ~~is being sold, offered for sale, or displayed for sale.~~

575 ~~— (d) The motorized vehicle shall have an operable swing arm attached to its left side. This~~  
576 ~~swing arm shall be of a type, size, and description approved by the City, and shall be~~  
577 ~~activated whenever the vehicle stops to sell, offer to sell, or display merchandise on a public~~  
578 ~~street.~~

579 ~~— (e) The motorized vehicle shall be prohibited from pulling any type of trailer.~~

580 ~~— (f) If the merchandise being sold, offered for sale, or displayed for sale includes any item~~  
581 ~~intended for human consumption, the vehicle shall be inspected and approved by the Salt~~  
582 ~~Lake County Health Department on a yearly basis.~~

583 ~~— (g) Retail merchandise may be sold, offered for sale, or displayed for sale from or on~~  
584 ~~motorized vehicles on public streets only between the hours of one hour after sunrise and one~~  
585 ~~hour before sunset. Sunrise and sunset shall be determined on any particular day by the times~~  
586 ~~listed that day in any major newspaper published in Salt Lake County.~~

587 ~~— (h) Retail merchandise may not be sold, offered for sale, or displayed for sale from or on~~  
588 ~~motorized vehicles on public streets where the speed limit exceeds 25 miles per hour.~~

589 ~~— (i) The operator of the motorized vehicle shall not sell to any person standing in the~~  
590 ~~roadway.~~

591 ~~— (j) The operator of the motorized vehicle shall sell, offer to sell, or display for sale retail~~  
592 ~~merchandise only when the vehicle is completely stopped and lawfully parked, and shall sell~~  
593 ~~only from the rear or side of the vehicle nearest to the curb or edge of the roadway.~~

594 ~~— (k) The motorized vehicle shall not be moved backwards in order to sell, offer to sell, or~~  
595 ~~display for sale retail merchandise.~~

596 ~~— (l) Each applicant for a license or renewal under this Section shall submit, with its~~  
597 ~~application, evidence of general liability insurance in an amount not less than \$500,000. The~~  
598 ~~applicant must submit to the City a certificate of insurance that provides that the policy~~  
599 ~~cannot be canceled prior to giving the City at least 10 days written notice of cancellation.~~

600 ~~— (m) The motorized vehicle and operator must comply with all other requirements of this~~  
601 ~~Chapter and any other requirements of ordinance or statute that may be applicable.~~

602 ~~— (3) — Each person selling, offering to sell, or displaying for sale retail merchandise from or on~~  
603 ~~motorized vehicles on public streets shall obtain a West Valley City Police work card prior to beginning~~  
604 ~~operation. The City may deny, suspend, or revoke a work card and license, if applicable, if the applicant~~  
605 ~~or licensee has received a moving traffic violation within the last 12 months.~~

606 ~~— (4) — The prohibitions of this Section shall not be construed to prohibit vehicles from carrying~~  
607 ~~business markings or advertising not otherwise prohibited by law, nor shall they prohibit delivery of~~  
608 ~~merchandise which was not sold or purchased on public streets.~~

610 **~~17-22-216. SUSPENSION AND REVOCATION OF LICENSE.~~**

611 ~~— (1) — In addition to any penalties that may be imposed, any license issued under this Chapter may~~  
612

be suspended or revoked for any of the following reasons:

- ~~\_\_\_\_\_ (a) Fraud, misrepresentation, or knowingly false statement contained in the application for the license;~~
  - ~~\_\_\_\_\_ (b) Fraud, misrepresentation, or knowingly false statement in the course of carrying on the business of vending;~~
  - ~~\_\_\_\_\_ (c) Conducting the business of vending in any manner contrary to the conditions of the license;~~
  - ~~\_\_\_\_\_ (d) Conducting the business of vending in such a manner as to create a public nuisance; cause a breach of the peace; constitute a danger to the public health, safety, welfare, or morals; or interfere with the rights of abutting property owners; or~~
  - ~~\_\_\_\_\_ (e) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations.~~
- ~~\_\_\_\_\_ (2) The Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the licensee or permittee of the appeal procedure. Such notice shall be mailed to the address shown on the license holder's application by certified mail, return receipt requested.~~
- ~~\_\_\_\_\_ (3) If the City revokes a vending license or permit, the fee already paid for the license or permit shall be forfeited. A person whose license or permit has been revoked under this Section may not apply for a new license for a period of one year from the date that the revocation took effect.~~

#### **~~17-22-217. APPEALS.~~**

~~\_\_\_\_\_ (1) If the Director denies the issuance of a license or permit, suspends or revokes a license or permit, or orders the cessation of any part of the business operation conducted under the license or permit, the aggrieved party may appeal the Director's decision to the License Hearing Board in accordance with Section 17-3-106 of the City Code.~~

~~\_\_\_\_\_ (2) The filing of an appeal stays the action of the Director in suspending or revoking a license or permit or any part of the business operation being conducted under such license or permit until the License Hearing Board makes a final decision, unless the Director determines that continued operation of the vending business constitutes an imminent and serious threat to the public health or safety, in which case the Director shall take or cause to be taken such action as is necessary to immediately enforce the suspension, revocation, or order.~~

#### **~~17-22-218. RENEWALS.~~**

~~\_\_\_\_\_ A vending license may be renewed, provided an application for renewal and license fees are received by the City no later than the expiration date of the current license. Any application received after that date shall be processed as a new application. The Director shall review each application for renewal and, upon determining that the applicant is in full compliance with the provisions of this Chapter, shall issue a new license.~~

#### **~~17-22-219. CONSTRUCTION.~~**

~~\_\_\_\_\_ No part of this Chapter or the Chapter itself shall be construed to be an amplification or derogation of the rights or responsibilities of abutting property owners. Any remedies, rights, or obligations provided to such property owners or their successors in interest under the law of real property or the laws of the State of Utah shall be in addition to the remedies, rights, obligations, or penalties provided hereunder.~~

**~~17-22-300P PART 3- TEMPORARY BUSINESSES~~**

**~~17-22-301. LICENSE REQUIRED.~~**

~~— It is unlawful for any person to engage in, carry on, or conduct a temporary business in the City without first obtaining a license. Temporary businesses shall be subject to the regulations of this Title.~~

**~~17-22-302. LICENSE FEE.~~**

~~— The license fee for engaging in, carrying on, or conducting a temporary business shall be as stated in the Consolidated Fee Schedule.~~

**~~17-22-303. PARTICIPANT LICENSE REQUIRED.~~**

~~— A participant shall not be required to obtain the license required by Section 17-22-301, but it is unlawful for a participant to transact any business at a sales event without obtaining a license therefor and without acting under a licensed temporary business sponsor. Participants shall be subject to the regulations of this Title.~~

**~~17-22-304. PARTICIPANT LICENSE FEE.~~**

~~— The license fee for a participant shall be as stated in the Consolidated Fee Schedule.~~

**~~17-22-305. TEMPORARY BUSINESS SPONSOR LICENSE REQUIRED.~~**

~~— It is unlawful for any person to act in the capacity of a temporary business sponsor in the City without first obtaining a license. Temporary business sponsors shall be subject to the regulations of this Title.~~

**~~17-22-306. TEMPORARY BUSINESS SPONSOR LICENSE FEE.~~**

~~— The license fee for a temporary business sponsor shall be as stated in the Consolidated Fee Schedule.~~

**~~17-22-307. INFORMATION REQUIRED FOR PARTICIPATION IN SALES EVENTS.~~**

~~— (1) — A temporary business sponsor or a licensed temporary business must submit to the Business License Division, at least 15 days prior to a sales event, the following information:~~

~~— (a) A list of all participants, including their names and addresses;~~

~~— (b) The location of the sales event; and~~

~~— (c) The dates of commencement and termination of the sales event.~~

~~— (2) — In the event the temporary business sponsor shall desire to add additional participants after the above information has been submitted, the sponsor must notify the Division and update the list of participants. Updates submitted less than 15 days prior to a sales event shall be charged a late fee established in the Consolidated Fee Schedule.~~

**~~17-22-308. DETERMINATION OF STATUS APPEALS.~~**

~~— (1) — In case an applicant shall claim to be a permanent merchant and is required to take out a license upon the ground that the applicant is a temporary merchant, the Director shall notify the applicant in writing.~~

~~— (2) — The applicant may appeal the Director's decision to the License Hearing Board, pursuant to Chapter 17-3 of this Title.~~

**~~17-22-309. EACH SALE WITHOUT A LICENSE SEPARATE OFFENSE.~~**

~~—The sale of each article by a temporary merchant, a temporary merchant sponsor, or a participant without a license therefor shall be a separate offense under, and a separate violation of, this Chapter.~~

**~~17-22-310. BOND.~~**

~~—All temporary business sponsors shall furnish to the Division a bond or letter of credit in the amount of \$5,000.~~

**~~17-22-400P PART 4—AGGRESSIVE SOLICITATION~~**

**~~17-22-401. DEFINITIONS.~~**

~~—(1) "Aggressive Manner" means and includes:~~

~~—(a) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;~~

~~—(b) Following the person being solicited, if that conduct is:~~

~~—(i) Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or~~

~~—(ii) Intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;~~

~~—(c) Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is:~~

~~—(i) Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or~~

~~—(ii) Intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;~~

~~—(d) Intentionally or recklessly blocking the safe or free passage of the person or vehicle being solicited, or requiring the person or the driver of a vehicle to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued by the Police Department shall not constitute obstruction of pedestrian or vehicular traffic;~~

~~—(e) Intentionally or recklessly using:~~

~~—(i) Obscene or abusive language or gestures intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or~~

~~—(ii) Words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or~~

~~—(f) Approaching the person being solicited in a manner that is:~~

~~—(i) Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or~~

~~—(ii) Intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.~~

~~—(2) "Automated Teller Machine" means a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.~~

~~—(3) "Automated Teller Machine Facility" means the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.~~

~~— (4) — "Bank" means any licensed banking corporation or credit union operating in the City.~~  
~~— (5) — "Check Cashing Business" means any person duly licensed to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws.~~  
~~— (6) — "Solicit," for the purposes of this Part, means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication. For the purposes of this Part, "solicit" includes soliciting, peddling, and vending as defined in this Title, including solicitation for charitable purposes.~~

## **~~17-22-402. PROHIBITED ACTS.~~**

~~— It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:~~

~~— (1) — In an aggressive manner in a public way;~~

~~— (2) — In any public transportation vehicle or bus or subway station or stop;~~

~~— (3) — Within 15 feet of any entrance or exit of any bank or check cashing business or within 15 feet of any automated teller machine during the hours of operation of such bank, automated teller machine, or check cashing business without the consent of the owner or other person legally in possession of such facilities; provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;~~

~~— (4) — On private property, if the owner, tenant, or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property; or~~

~~— (5) — From any operator of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows; or for blocking, occupying, or reserving a public parking space; or for directing the occupant to a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.~~

**Section 2. Amendment.** Section 17-1-101 of Title 17 of the West Valley City Municipal Code are hereby amended to read as follows:

## **17-1-101. DEFINITIONS.**

(28) "Food Vending Unit" means a unit that is manually pushed (cart) or pulled behind a vehicle (trailer) and is not motorized as to move on its own power, which remains stationary in one location, is temporary in nature and not placed in a permanent way on the property, which is used for the sale of food items for immediate consumption, including non-alcoholic beverages.

(289) "Goods, Wares, or Merchandise" shall include, but not be limited to, fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, appliances, wearing apparel, jewelry, ornaments, art work, cosmetics and beauty aids, health products, medicines, household needs or furnishings, confections, drinks, or food of any kind, whether or not for immediate consumption. This definition also includes tickets or passes for admittance to public recreations, shows, museums, theaters, and other similar public events when such tickets or passes are sold by a person other than the authorized sponsor or organizer of the event.

(2930) "Hardware Store" means a facility of 30,000 or fewer square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, garden supplies, and cutlery; if greater than 30,000 square feet, such a facility is a home improvement center.



(341) "Health Department" means the Salt Lake City/County Health Department.

(342) "Hearing Board" shall mean each and every member of the License Hearing Board of West Valley City. (Section 17-3-105 of this Title.)

(323) "Home Improvement Center" means an establishment selling various household goods, tools, and building materials, durable household goods (e.g., refrigerators, lawn care machines, washing machines), electronic equipment, household animal supplies, nursery products, etc. Retail stock (e.g., nursery items, lumber goods) may be kept outdoors. All such stock (except plant materials) shall be screened in accordance with the [city ordinance]. At least 75 percent of all indoor floor-good space shall be for retail sales.

(334) "Hotel" means an establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone and desk service. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, and recreational facilities. It may or may not include kitchen facilities.

(3435) "Licensee" means the person who has obtained any type of license provided for in this Title. The term shall also include any employee or agent of the licensee.

(36) "Mobile food vending vehicle" means a fully enclosed motorized vehicle mounted food service establishment operated by a vendor standing within the frame of the vehicle which is used for the sale of food items for immediate consumption, including non-alcoholic beverages. This vehicle must move on its own power and is not manually pushed, pulled or towed by another vehicle.

(356) "Motel" A building or series of buildings in which lodging is offered for compensation, and which is distinguished from a hotel primarily by reason of providing direct independent access to, and adjoining parking for, each rental unit.

(367) "Motor Vehicle" means any vehicle used for displaying, storing, or transporting articles for sale by a vendor, which is required to be licensed and registered by the Utah Division of Motor Vehicles.

(3738) "Ordinance Enforcement Office" means the Ordinance Enforcement Office of the Ordinance Enforcement and Animal Control Division of the West Valley City Community and Economic Development Department.

(389) "Participant" means a temporary business, not licensed as such, participating in a sales event.

(3940) "Peddler" means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale; or offering to perform services in exchange for compensation. "Peddler" also includes any person who solicits orders and, as a separate transaction, makes deliveries to purchasers as part of a scheme to evade the provisions of this Ordinance.

(401) "Peddling" includes all activities ordinarily performed by a peddler, as such term is defined in this Section.

(412) "Person" means an individual, partnership, corporation, association, or other legal entity.

(423) "Place of Business" means each separate location maintained or operated by the licensee, whether or not under the same name, within the City from which business is engaged in.

(434) "Planning and Zoning Division" means the Planning and Zoning Division of the West Valley City Community and Economic Development Department.

(445) "Police Department" means the West Valley City Police Department.

(456) "Public Property" includes all government-owned parks, buildings, and facilities, and government-owned property within street rights-of-way, including any roadways and sidewalks.

(467) "Public Way" means all areas legally open to public use, such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and

immediately adjacent to public buildings. "Public Way" also includes areas designated for parking associated with public property.

(478) "Pushcart" means any wheeled vehicle approved by the Business Licensing Division in accordance with this Chapter, designed for carrying property and for being pushed by a person without the assistance of a motor or motor vehicle.

(489) "Racetrack" means a facility consisting of a paved roadway used primarily for the sport of automobile racing. A racetrack may include seating, concession areas, suites, and parking facilities, but does not include accessory offices, residences, or retail facilities. This definition shall also include any facility used for driving automobiles under simulated racing or driving conditions (test tracks, "shakedown" tracks, or other similar facilities), but which does not include seating, concession areas, or retail facilities for the general public.

(4950) "Reception Center" means building, together with its accessory buildings and uses, which is a place of assembly with the predominant purpose of hosting single events or a series of events, either of which is not to exceed a seventy- two (72) hour period, occurring alone or as part of another activity or business, to which the public is invited or, upon payment of an admission charge, is permitted to watch, listen, or participate, or which is conducted for the purpose of holding the attention of, gaining the attention of, diverting the attention of, or amusing guests or patrons, including:

- (a) presentations by single or multiple performers, such as a hypnotist, pantomime, comedian, musical song or dance act, play, concert, any type of contest, sporting event, exhibition, carnival, rodeo or circus act, athletic competition, demonstration of talent, show, review, or any other similar activity which may be attended by members of the public;
- (b) dancing to live or recorded music;
- (c) the presentation of recorded music played on equipment by a person commonly known as a "DJ" or "disk jockey," or
- (d) any other event promoted by a bona fide incorporated association, non-profit organization, corporation, church, or political organization, recognized subordinate lodge, chapter, or public fairs, stock and other animal shows, celebrations, fiestas, occasional athletic contests and similar events. Public, private and charter schools are exempt from this section.

(501) "Religious or Charitable Organization" means any organization that can provide written approval from the Internal Revenue Service that the organization has been granted tax-exempt status under Section 501(c) (3) of the Internal Revenue Code or its successor.

(512) "Sales Event" means an event lasting five days or less where two or more temporary merchants, not more than one of whom is licensed as a temporary merchant, display any goods, wares, or services at a location in the City for the purpose of sale or soliciting orders to be filled in the future for financial gain or profit.

(523) "Sidewalk" means all of that area legally open to public use as a pedestrian public way between the curb line and the legal building line of the abutting property.

~~(53) "Solicitor" means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future.~~

~~(54) "Solicitation" includes all activities ordinarily performed by a solicitor on both private and public property, as such term is defined in this Section.~~

(554) "Specified Anatomical Areas" means:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- 913 (565) "Specified Sexual Activities" means:
- 914 (a) Human genitals in a state of sexual stimulation or arousal;
- 915 (b) Acts of human masturbation, sexual intercourse, or sodomy; or
- 916 (c) Fondling or other erotic touching of human genitals, pubic region, or female
- 917 breast.
- 918 (576) "Stand" means any showcase, table, bench, rack, handcart, pushcart, stall, or any other
- 919 fixture or device that is used for the purpose of displaying, exhibiting, carrying, transporting, storing,
- 920 selling, or offering for sale any food, beverages, goods, wares, or merchandise upon a sidewalk.
- 921 (587) "Street" means all of that area legally open to public use as public streets, and sidewalks,
- 922 roadways, highways, parkways, alleys, and any other public way.
- 923 (598) (a) "Temporary Business" means any business which intends to conduct business at
- 924 any single place of business for 90 days or less, and whose place of business is
- 925 located within the building confines of a licensed non-temporary business and:
- 926 (i) Engages in a temporary business of selling and/or delivering goods, wares, or
- 927 services, or who conducts meetings open to the general public where
- 928 franchise, distributorships, contracts, or business opportunities are
- 929 offered to the public; or
- 930 (ii) Sells, offers, or exhibits for sale any goods, wares, or services,
- 931 franchises, distributorships, contracts, or business opportunities, during
- 932 the course of, or any time within six months after, a lecture or public
- 933 meeting pertaining to such goods, wares, services, franchises,
- 934 distributorships, contracts, or business opportunities.
- 935 (b) "Temporary Business" shall not include the following:
- 936 (i) A person who shall occupy any business establishment for the purpose of
- 937 conducting a permanent business therein; provided, however, that no
- 938 person shall be relieved from the provisions of this Title by reason of a
- 939 temporary association with any local dealer, trader, merchant, or
- 940 auctioneer, or by conducting such temporary or transient business in
- 941 connection with, as a part of, or in the name of any local dealer, trader,
- 942 merchant, or auctioneer;
- 943 (ii) Any sales of merchandise damaged by smoke or fire, or of bankrupt
- 944 concerns, where such stock has been acquired from a merchant or
- 945 merchants of the City regularly licensed and engaged in business;
- 946 provided, however, no such stock of merchandise shall be augmented by
- 947 new goods;
- 948 (iii) A person who sells his/her own property that was not acquired for resale,
- 949 barter, or exchange, and who does not conduct such sales more than
- 950 twice during any calendar year;
- 951 (iv) Art exhibits, where participating artists sell their original works, and
- 952 which do not contain any sales(s) of artwork purchased or taken on
- 953 consignment and held for resale, providing such art exhibits are
- 954 sponsored by a local, responsible organization;
- 955 (v) Religious or charitable organizations as defined in this Section;
- 956 (vi) Sales of goods, wares, or services at a convention, meeting, or exposition
- 957 that is not open to or advertised to the general public, to the extent such
- 958 sales are made to registered members of the sponsoring organization,
- 959 provided the sponsoring organization or its designated agent delivers to
- 960 the Director, at least 15 days in advance of such convention, meeting, or
- 961 exposition, a statement of the organization's qualification for this
- 962 exemption and a statement of the common interest or category of those
- 963 who will be attending such convention, meeting, or exposition; and

providing all persons selling or purchasing goods, wares, or services at such convention, meeting, or exposition shall wear or display, in a conspicuous manner, a tag stating the name of the sponsoring organization;

(vii) Home occupations;

(viii) A business that is specifically regulated under this Title, whether or not it is temporary; or

(ix) Any business that requires a conditional use or temporary use permit, whether or not it is temporary.

(6059) "Temporary Business Sponsor" means any person who leases or rents a building or portion of a building for the purpose of conducting a sales event with two or more participants.

(610) "Vendor" means any person, traveling by foot, wagon, vehicle, or any other type of conveyance from street to street, carrying, conveying, or transporting goods, wares, or merchandise and offering and exposing them for sale, or making sales and delivering articles to purchasers; or who, without traveling from place to place, exhibits, displays, sells, or offers for sale such products while on the public ways of the City. "Vendor" also includes any street vendor, hawker, huckster, itinerant merchant, or transient vendor. "Vendor" does not include a door-to-door peddler or solicitor.

(621) "Vehicle" means every device in, upon, or by which a person or property may be transported or drawn upon a street or sidewalk, including, but not limited to, devices moved by human power.

(632) "Violated" or "Violating" means that there exists reasonable cause to believe that any ordinance, code, statute, or law has been or is being violated, and is not limited to pleas of guilty or convictions for violating said ordinances, codes, statutes, or laws.

**Section 3. Enactment.** Chapters 22 and 35 of Title 17 of the West Valley City Municipal Code are hereby enacted to read as follows:

## TITLE 17 BUSINESS LICENSE ORDINANCE

### Chapters:

- 17-1 General Provisions
- 17-2 Alcoholic Beverage Licenses
- 17-3 Denial, Suspension or Revocation of a License
- 17-4 Base Fees and Bonding
- 17-5 Employees of Alcohol Establishments
- 17-6 Swap Meets
- 17-7 Massage Establishments
- 17-8 Public Recreation
- 17-9 Restaurants
- 17-10 Ambulances, Emergency Medical Service Providers and Special Transportation Providers
- 17-11 Service Stations
- 17-12 Taxi Services
- 17-13 Burglar and Robbery Alarm Systems
- 17-14 Auctions and Auctioneers
- 17-15 Bicycle Shops
- 17-16 Christmas Tree Business
- 17-17 Employment Agency
- 17-18 Locksmithing
- 17-19 Liquidation and Fire or Damaged Goods Sales
- 17-20 Mobile Home Parks and Trailer and Auto Courts
- 17-21 Outdoor Advertisers

1015	17-22	<del>Solicitors, Peddlers, Vendors, and Temporary Businesses</del>	Residential Solicitation
1016	17-23	Pawn Shops, Secondhand Dealers, etc.	
1017	17-24	Sale and Use of Fireworks	
1018	17-25	Amusement Halls and Arcades	
1019	17-26	Sexually-oriented Businesses	
1020	17-27	Auto Wreckers	
1021	17-28	Towing Services	
1022	17-29	Civil Rights	
1023	17-30	Innkeepers	
1024	17-31	Rental Dwelling Units	
1025	17-32	Private Investigators	
1026	17-33	Parking Services	
1027	17-34	Permanent Cosmetics	

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## CHAPTER 17-22 RESIDENTIAL SOLICITATION

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### Sections:

1033	17-22-101.	Purpose.
1034	17-22-102.	No Other City License or Approval Required.
1035	17-22-103.	Definitions.
1036	17-22-104.	Exemptions from Chapter.
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1051	17-22-119.	Time of Day Restrictions.
1052	17-22-120.	Buyer=s Right to Cancel.
1053	17-22-121.	Penalties.

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### **17-22-101. PURPOSE.**

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(1) Residents of the City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

(2) There must be a balance between these substantial interests of the City and its citizens,

and the effect of the regulations in this Chapter on the rights of those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding Door-to-Door Solicitation, the experience of its law enforcement officers and those affected by Door-to-Door canvassing and Solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in Door-to-Door Solicitation, the City adopts this Chapter to promote the City's substantial interests in:

- (a) respecting citizen's decisions regarding privacy in their residences;
- (b) protecting persons from criminal conduct;
- (c) providing equal opportunity to Advocate for and against Religious Belief, Political Position, or Charitable Activities; and
- (d) permitting truthful and non-misleading Door-to-Door Solicitation regarding lawful Goods or Services in intrastate or interstate commerce.

(3) The City finds that the procedures, rules and regulations set forth in this Chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.

#### **17-22-102. NO OTHER CITY LICENSE OR APPROVAL REQUIRED.**

(1) Registered Solicitors and persons exempt from Registration need not apply for, nor obtain, any other license, permit, or registration from the City to engage in Door-to-Door Solicitation.

(2) Any Business licensed by the City under another City Ordinance that uses employees, independent contractors, or agents for Door-to-Door Solicitation in an effort to provide any tangible or intangible benefit to the Business, shall be required to have such Solicitors obtain a Certificate, unless otherwise exempt from Registration.

(3) Those Responsible Persons or Entities associated with Registered Solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.

(4) Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a Registered Solicitor is otherwise required to have or maintain.

#### **17-22-103. DEFINITIONS.**

For the purposes of this Chapter, the following definitions shall apply:

(1) "Advocating" means conduct, including speech, intended to inform, promote, or support Religious Belief, Political Position, or Charitable Activities.

(2) "Appeals Officer" means the City Manager.

(3) "Appellant" means the person or entity appealing the denial or suspension of a Certificate, either personally as an Applicant or registered Solicitor, or on behalf of the Applicant or Registered Solicitor.

(4) "Applicant" means an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a Certificate permitting Door-to-Door Solicitation.

(5) "Application Form" means a standardized form provided by the City to an Applicant to be completed and submitted as part of Registration.

(6) "B.C.I." means an original or copy, dated no older than 180 days prior to the date of the Application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the Applicant; or (2) verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a Disqualifying Status exists for the Applicant.

1116 (7) "Certificate" means a temporary, annual, or renewal Certificate permitting Door-to-Door  
1117 Solicitation in the City applied for or issued pursuant to the terms of this Chapter.

1118 (8) "Competent Individual" means a person claiming to be at least eighteen (18) years of age  
1119 and of sufficiently sound mind and body to be able to engage in rational thought, conversation and  
1120 conduct.

1121 (9) "Completed Application" means a fully completed Application Form, a BCI, two copies  
1122 of the original identification relied on by the Applicant to establish Proof of Identity and the tendering of  
1123 fees.

1124 (10) "Criminally Convicted" means, for the purpose of this Chapter, the final entry of a  
1125 conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has  
1126 not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense  
1127 of which the Applicant or Registered Solicitor was convicted, without regard to the reduced status of the  
1128 charge after completion of conditions of probation or parole, and specifically includes charges dismissed  
1129 pursuant to a plea in abeyance or diversion agreement.

1130 (11) "Disqualifying Status" means anything specifically defined in this Chapter as requiring  
1131 the denial or suspension of a Certificate, and any of the following:

1132 (a) The Applicant or Registered Solicitor has been Criminally Convicted of: (i)  
1133 felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor  
1134 or Vulnerable Adult (iii) the sale or distribution of controlled substances, (iv)  
1135 sexual assault of any kind, or (v) a crime involving dishonesty or false statements  
1136 within the meaning of Rule 609(a)(2), Utah Rules of Evidence;

1137 (b) Criminal charges currently pending against the Applicant or Registered Solicitor  
1138 for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a  
1139 minor or Vulnerable Adult, (iii) the sale or distribution of controlled substances,  
1140 (iv) sexual assault of any kind, or (v) a crime involving dishonesty or false  
1141 statements within the meaning of Rule 609(a)(2), Utah Rules of Evidence;

1142 (c) The Applicant or Registered Solicitor has been Criminally Convicted of a felony  
1143 within the last ten (10) years;

1144 (d) The Applicant or Registered Solicitor has been incarcerated in a federal or state  
1145 prison within the past five (5) years;

1146 (e) The Applicant or Registered Solicitor has been Criminally Convicted of a  
1147 misdemeanor within the past five (5) years involving a crime of: (i) moral  
1148 turpitude, or (ii) violent or aggravated conduct involving persons or property;

1149 (f) A Final Civil Judgment been entered against the Applicant or Registered  
1150 Solicitor within the last five (5) years indicating that: (i) the Applicant or  
1151 Registered Solicitor had either engaged in fraud, or intentional misrepresentation,  
1152 or (ii) that a debt of the Applicant or Registered Solicitor was non-dischargeable  
1153 in bankruptcy pursuant to 11 U.S.C. ' 523(a)(2), (a)(4), (a)(6), or (a)(19);

1154 (g) The Applicant or Registered Solicitor is currently on parole or probation to any  
1155 court, penal institution, or governmental entity, including being under house  
1156 arrest or subject to a tracking device;

1157 (h) The Applicant or Registered Solicitor has an outstanding arrest warrant from any  
1158 jurisdiction; or

1159 (i) The Applicant or Registered Solicitor is currently subject to a protective order  
1160 based on actual or threatened physical or sexual abuse issued by a court of  
1161 competent jurisdiction.

1162 (12) "Door to Door Solicitation" means the practice of engaging in or attempting to engage in  
1163 conversation with any person at a Residence, whether or not that person is a Competent Individual, while  
1164 making or seeking to make or facilitate a Home Solicitation Sale, or attempting to further the sale of  
1165 Goods and or Services.

1166 (13) "Home Solicitation Sale" means to make or attempt to make a Sale of Goods or Services

by a Solicitor at a Residence by means of Door-to-Door Solicitation, regardless of

- (a) the means of payment or consideration used for the purchase;
- (b) the time of delivery of the Goods or Services; or
- (c) the previous or current classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

(14) “No Solicitation Sign” means a reasonably visible and legible sign that states “No Soliciting,” “No Solicitors,” “No Salespersons,” “No Trespassing,” or words of similar import.

(15) “Registered Solicitor” means any person who has been issued a current Certificate by the City.

(16) “Registration” means the process used by the City Licensing Officer to accept a Completed Application and determine whether a Certificate will be denied, granted, or suspended.

(17) “Religious Belief” means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

(18) “Responsible Person or Entity” means that person or Entity responsible to provide the following to an Applicant, Registered Solicitor, and the Competent Individual in a Residence to whom a Sale of Goods or Services is made or attempted to be made by means of a Home Solicitation Sale:

- (a) maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any Sale of Goods or Services, paying the sales taxes, and/or filing any required returns or reports;
- (b) facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and/or
- (c) refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

(19) “Sale of Goods or Services” means the conduct and agreement of a Solicitor and the Competent Individual in a Residence regarding a particular Good(s) or Service(s) that entitled the consumer to rescind the same within three days under any applicable federal, state, or local law.

(20) “Services” means those intangible goods or personal benefits offered, provided, or sold to a Competent Individual of a Residence.

(21) “Soliciting” or “Solicit” or “Solicitation” means any of the following activities:

- (a) Seeking to obtain Sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
- (b) Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
- (c) Seeking to obtain contributions of money or any other thing of value for the benefit of any person or Entity;
- (d) Seeking to obtain orders or prospective customers for Goods or Services;
- (e) Seeking to engage an individual in conversation at a Residence for the purpose of promoting or facilitating the receipt of information regarding Religious Belief, Political Position, Charitable Conduct, or a Home Solicitation Sale; and/or
- (f) Other activities falling within the commonly accepted definition of Soliciting, such as hawking or peddling.

(22) “Solicitor” or “Solicitors” means a person(s) engaged in Door-to-Door Solicitation.

(23) “Submitted in Writing” means the information for an appeal of a denial or suspension of a Certificate, submitted in any type of written statement to the City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

(24) “Substantiated Report” means an oral, written, or electronic report:

- (a) That is submitted to and documented by the City;
- (b) By any of the following:



- (i) A Competent Individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;
- (ii) City law enforcement or Licensing Officer; or
- (iii) Any other regularly established law enforcement agency at any level of government;
- (c) That provides any of the following information regarding a Registered Solicitor:
- (i) Documented verification of a previously undisclosed Disqualifying Status of a Registered Solicitor;
- (ii) Probable cause that the Registered Solicitor has committed any act set forth as a Disqualifying action regardless of whether it has already been determined to be a Disqualifying act;
- (iii) Documented, eye-witness accounts that the Registered Solicitor has engaged in repeated patterns of behavior that demonstrates failure by the Registered Solicitor to adhere to the requirements of this Chapter; or
- (iv) Probable cause that continued licensing of the Registered Solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City [I think this may be too discretionary, resulting in a prior restraint].
- (25) “Vulnerable Adult” means an elder adult, or an adult 18 years of age or older who has a mental or physical impairment which substantially affects that person’s ability to:
- (a) provide personal protection;
- (b) provide necessities such as food, shelter, clothing, or medical or other health care;
- (c) obtain services necessary for health, safety, or welfare;
- (d) carry out the activities of daily living;
- (e) manage the adult’s own resources; or
- (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.
- (26) “Waiver” means the written form provided to Applicant by the City wherein Applicant agrees that City may obtain a name/date of birth BCI background check on the Applicant for licensing purposes under this Chapter, and which contains Applicant’s notarized signature.

#### **17-22-104. EXEMPTIONS FROM CHAPTER.**

- The following are exempt from Registration under this Chapter:
- (1) Persons specifically invited to a Residence by a Competent Individual prior to the time of the person’s arrival at the Residence;
- (2) Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in Door to Door Solicitation to offer Goods or Services to an occupant of the Residence;
- (3) Persons delivering Goods to a Residence pursuant to a previously made order, or persons providing Services at a Residence pursuant to a previously made request by a Competent Individual;
- (4) Persons advocating or disseminating information for, against, or in conjunction with, any Religious Belief, or Political Position regardless of whether Goods, Services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and
- (5) Persons representing a Charitable Organization. The charitable exemption shall apply to students Soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the Solicitation has been approved in writing by the school administration, and that such student Solicitors carry current picture student identification from the educational institution for which they are Soliciting.

Those Persons exempt from Registration are not exempt from the duties and prohibitions outlined in Sections 17-22-117, 17-22-118 and 17-22-119 while Advocating or Soliciting.

**17-22-105. SOLICITATION PROHIBITED.**

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon a private Residence within the City by Solicitors, for the purpose of Home Solicitation Sales or to provide Goods or Services, is prohibited and is punishable as set forth in this Chapter.

**17-22-106. REGISTRATION OF SOLICITORS.**

Unless otherwise exempt under this Chapter, all persons desiring to engage in Door-to-Door Solicitation within the City, prior to doing so, shall submit a Completed Application to the Licensing Officer and obtain a Certificate.

**17-22-107. APPLICATION FORM.**

The Licensing Officer shall provide a standard Application Form for use for the Registration of Solicitors. Upon request to the Licensing Officer, or as otherwise provided, any person or Entity may obtain in person, by mail, or facsimile, a copy of this Application Form. Each Application Form shall require disclosure and reporting by the Applicant of the following information, documentation, and fee:

(1) Review of Written Disclosures. An affirmation that the Applicant has received and reviewed the disclosure information required by this Chapter.

(2) Contact Information.

(a) Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;

(b) Applicant's telephone number, home address and mailing address, if different;

(c) If different from the Applicant, the name, address, and telephone number of the Responsible Person or Entity; and

(d) The address by which all notices to the Applicant required under this Chapter are to be sent.

(3) Proof of Identity. An in-person verification by the Licensing Officer of the Applicant's true identity by use of any of the following which bear a photograph of said Applicant:

(a) A valid drivers license issued by any State;

(b) A valid passport issued by the United States;

(c) A valid identification card issued by any State;

(d) A valid identification issued by a branch of the United States military.

Upon verification of identity, the original identification submitted to establish Proof of Identity shall be returned to the Applicant.

(4) Proof of Registration with Department of Commerce. The Applicant shall provide proof that either the Applicant, or the Responsible Person or Entity, has registered with the Utah State Department of Commerce;

(5) Special Events Sales Tax Number. The Applicant shall provide a special events sales tax number for either the Applicant, or for the Responsible Person or Entity for which the Applicant will be soliciting;

(6) Marketing Information.

(a) The Goods or Services offered by the Applicant, including any commonly known, registered or trademarked names;

(b) Whether the Applicant holds any other licenses, permits, registrations, or other

qualifications required by federal or state law to promote, provide, or render advice regarding the offered Goods or Services.

(7) BCI Background Check. The Applicant shall provide an original or a copy of a BCI background check as defined in 17-22-103; and a signed copy of a Waiver whereby Applicant agrees to allow the City to obtain a name/date of birth BCI background check on Applicant for purposes of enforcement of this Chapter.

(8) Responses to Questions Regarding "Disqualifying Status." The Applicant shall be required to affirm or deny each of the following statements on the Application Form:

- (a) Has the Applicant been Criminally Convicted of: (I) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, or Vulnerable Adult (iii) the sale or distribution of controlled substances, (iv) sexual assault of any kind, or (v) a crime involving dishonesty or false statements within the meaning of Rule 609(a)(2), Utah Rules of Evidence;
- (b) Are any criminal charges currently pending against the Applicant for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, or Vulnerable Adult (iii) the sale or distribution of controlled substances, (iv) sexual assault of any kind, or (v) a crime involving dishonesty or false statements within the meaning of Rule 609(a)(2), Utah Rules of Evidence;
- (c) Has the Applicant been Criminally Convicted of a felony within the last ten (10) years;
- (d) Has the Applicant been incarcerated in a federal or state prison within the past five (5) years;
- (e) Has the Applicant been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of: (I) moral turpitude, or (ii) violent or aggravated conduct involving persons or property;
- (f) Has a Final Civil Judgment been entered against the Applicant within the last five (5) years indicating that: (I) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the Applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. ' 523(a)(2), (a)(4), (a)(6), or (a)(19);
- (g) Is the Applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
- (h) Does the Applicant have an outstanding arrest warrant from any jurisdiction; or
- (i) Is the Applicant currently subject to a protective order based on actual or threatened physical or sexual abuse issued by a court of competent jurisdiction.

(9) Fee. The Applicant shall pay such fees as determined applicable by the City, which shall not exceed the reasonable cost of processing the application and issuing the Certificate and/or Identification Badge.

(10) Execution of Application. The Applicant shall execute the Application Form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the Applicant, the information provided is complete, truthful and accurate.

## **17-22-108. WRITTEN DISCLOSURES.**

The Application Form shall be accompanied by written disclosures notifying the Applicant of the following:

- (1) The Applicant's submission of the Application authorizes the City to verify information submitted with the Completed Application including:
  - (a) the Applicant's address;
  - (b) the Applicant's and/or Responsible Person or Entity's state tax identification and

special use tax numbers, if any; and  
(c) the validity of the Applicant's Proof of Identity;  
(2) The City may consult any publicly available sources for information on the Applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments;  
(3) Establishing Proof of Identity is required before Registration is allowed;  
(4) Identification of the fee amount that must be submitted by Applicant with a Completed Application;  
(5) The Applicant must submit a BCI background check with a Completed Application;  
(6) To the extent permitted by State and/or federal law, the Applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection;  
(7) The City will maintain copies of the Applicant's Application Form, Proof of Identity, and Identification Badge. These copies will become public records available for inspection on demand at the City offices whether or not a Certificate is denied, granted, or renewed;  
(8) The criteria for Disqualifying Status, denial, or suspension of a Certificate under the provisions of this Chapter.  
(9) That a request for a temporary Certificate will be granted or denied the same business day that a Completed Application is submitted.

#### **17-22-109. WHEN REGISTRATION BEGINS.**

The Licensing Officer shall not begin the Registration process unless the Applicant has submitted a Completed Application. The original identification submitted to establish Proof of Identity shall be returned after the Licensing Officer verifies the Applicant's identity. A copy of the identification may be retained by the Licensing Officer. If an original B.C.I. background check is submitted by the Applicant, the Licensing Officer shall make a copy of the B.C.I. and return the original to the Applicant.

#### **17-22-110. ISSUANCE OF CERTIFICATES.**

The Licensing Officer shall review the Completed Application submitted by the Applicant and issue a Certificate in accordance with the following:

- (1) Temporary Certificate.
  - (a) A temporary Certificate shall issue allowing the Applicant to immediately begin Door-to-Door Solicitation upon the following conditions:
    - (i) Applicant's submission of a Completed Application;
    - (ii) Applicant's submission of the required fee;
    - (iii) Applicant establishes Proof of Identity;
    - (iv) the Applicant's representations on the Application Form do not affirmatively show a Disqualifying Status;
    - (iv) the B.C.I. does not affirmatively show a Disqualifying Status; and
    - (vi) the Applicant has not previously been denied a Certificate by the City, or had a Certificate revoked for grounds that still constitute a Disqualifying Status under this Chapter.
  - (b) A temporary Certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual Certificate, whichever period is shorter.
- (2) Annual Certificate. Within twenty-five (25) calendar days of the issuance of a temporary Certificate the City shall:
  - (a) Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the Applicant, including, but not limited to those disclosed with the Application Form;
  - (b) Issue written notice to the Applicant and the Responsible Person or Entity, if any,

that the Applicant either:

- (i) will be issued an annual Certificate, eligible for renewal one year from the date of issuance of the temporary Certificate; or
- (ii) will not be issued an Annual Certificate for reasons cited in Section 17-22-114 of this Chapter.

(3) **Renewal Certificate.** An annual Certificate shall be valid for one year from the date of issuance of the temporary Certificate and shall expire at midnight on the anniversary date of issuance. Any annual Certificate that is not suspended, revoked, or expired may be renewed upon the request of the Registered Solicitor and the submission of a new Completed Application and payment of the Fee, unless any of the conditions for the denial, suspension or revocation of a Certificate are present as set forth in section 17-22-114, or a Disqualifying Status exists.

#### **17-22-111. FORM OF CERTIFICATE AND IDENTIFICATION BADGE.**

(1) **Certificate Form.** Should the Licensing Officer determine that the Applicant is entitled to a Certificate, the Licensing Officer shall issue a Certificate to the Applicant. The Certificate shall list the name of the Registered Solicitor and the Responsible Person or Entity, if any, and the date on which the Certificate expires. The Certificate shall be dated and signed by the License Officer. The Certificate shall be carried by the Registered Solicitor at all times while Soliciting in the City.

(2) **Identification Badge.** With both the temporary and annual Certificates, the City shall issue each Registered Solicitor an Identification Badge that shall be worn prominently on his or her person while Soliciting in the City. The Identification Badge shall bear the name of the City and shall contain:

- (a) the name of the Registered Solicitor;
- (b) address and phone number of the Registered Solicitor, or the name, address, and phone number of the Responsible Person or Entity is provided;
- (c) a recent photograph of the Registered Solicitor; and
- (d) the date on which the Certificate expires.

#### **17-22-112. MAINTENANCE OF REGISTRY.**

The Licensing Officer shall maintain and make available for public inspection a copy or record of every Completed Application received and the Certificate or written denial issued by the City. The Applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The Licensing Officer may furnish to the head of the City's law enforcement agency a listing of all Applicants, those denied, and those issued a Certificate.

#### **17-22-113. NON-TRANSFERABILITY OF CERTIFICATES.**

Certificates shall be issued only in the name of the Applicant and shall list the Responsible Party or Entity, if any. The Certificate shall be non-transferable. A Registered Solicitor desiring to facilitate or attempt to facilitate Home Solicitation Sales with different: (a) Goods or Services; or (b) Responsible Person or Entity, from those designated in the originally submitted Completed Application, shall submit a written change request to the Licensing Officer. A new Certificate based on the amended information shall issue for the balance of time remaining on the Solicitor's previous Certificate before the amendment was filed so long as no Disqualifying Status exists. Before the new Certificate is given to the Registered Solicitor, the Registered Solicitor shall obtain a revised Identification Badge from the City, after payment of the Fee for the Identification Badge.

#### **17-22-114. DENIAL, SUSPENSION OR REVOCATION OF A CERTIFICATE OF REGISTRATION.**

1473  
1474 (1) Denial. Upon review, the Licensing Officer shall refuse to issue a Certificate to an  
1475 Applicant for any of the following reasons:

1476 (a) Denial of Temporary Certificate.

1477 (i) the Application Form is not complete;

1478 (ii) the Applicant fails to (1) establish Proof of Identity, (2) provide a B.C.I.  
1479 or (3) pay the Fees;

1480 (iii) the Completed Application or B.C.I. indicates that the Applicant has a  
1481 Disqualifying Status; or

1482 (iv) The Applicant has previously been denied a Certificate by the City, or  
1483 has had a Certificate revoked for grounds that still constitute a  
1484 Disqualifying Status under this chapter.

1485 (b) Denial of Annual Certificate.

1486 (i) The information submitted by the Applicant at the time of the granting of  
1487 the temporary Certificate is found to be incomplete or incorrect;

1488 (ii) Since the submission of the Completed Application, the Applicant is  
1489 subject to a previously undisclosed or unknown Disqualifying Status;

1490 (iii) Failure to complete payment of the Fees;

1491 (iv) Since the submission of the Application, the City has received a  
1492 Substantiated Report regarding the past or present conduct of the  
1493 Applicant;

1494 (v) Since the submission of the Application, the City or other governmental  
1495 entity has either Criminally Convicted or obtained a civil injunction  
1496 against the Applicant for violating this Chapter or similar Federal, State,  
1497 or municipal laws in a manner rising to the level of a Disqualifying  
1498 Status; or

1499 (vi) Since the submission of the Application, a Final Civil Judgment was  
1500 entered against the Applicant indicating that: (I) the Applicant had either  
1501 engaged in fraud, or intentional misrepresentation, or (ii) that a debt of  
1502 the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C.  
1503 ' 523(a)(2), (a)(4), (a)(6), or (a)(19).

1504 (c) Denial of Annual Certificate Renewal.

1505 (i) The information submitted by the Applicant when seeking renewal of a  
1506 Certificate is found to be incomplete or incorrect;

1507 (ii) Since the submission of the renewal Application, the Applicant is subject  
1508 to a previously undisclosed or unknown Disqualifying Status;

1509 (iii) Failure to complete payment of the Fees;

1510 (iv) Since the submission of the Application or granting of a Certificate, the  
1511 City has received a Substantiated Report regarding the past or present  
1512 conduct of the Solicitor;

1513 (v) The City or other governmental entity has either Criminally Convicted or  
1514 obtained a civil injunction against the Applicant for violating this  
1515 Chapter or similar Federal, State, or municipal laws in a manner rising to  
1516 the level of a Disqualifying Status; or

1517  
1518 (vi) Since the submission of the Application, a Final Civil Judgment was  
1519 entered against the Applicant indicating that: (i) the Applicant had either  
1520 engaged in fraud, or intentional misrepresentation, or (ii) that a debt of  
1521 the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C.  
1522 ' 523(a)(2), (a)(4), (a)(6), or (a)(19).

1523 (2) Suspension or Revocation. The City shall either suspend or revoke a Certificate when

any of the reasons warranting the denial of a Certificate occurs.

(3) Notice of Denial or Suspension. Upon determination of the Licensing Officer to deny an Applicant's Completed Application or to suspend a Registered Solicitor's Certificate, the City shall cause written notice to be sent to the Applicant or Registered Solicitor by the method indicated in the Completed Application. The Notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by Applicant upon one (1) business day's notice to the City, and the date upon which the denial or suspension of the Certificate shall take effect. It shall further state that the Applicant or Registered Solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the Certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section 17-22-103(34)(C)(4), in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a Certificate automatically results in its revocation.

#### **17-22-115. APPEAL.**

An Applicant or Registered Solicitor whose Certificate has been denied or suspended shall have the right to appeal to the City Manager. Any appeal must be submitted by either the Applicant, the Responsible Person or Entity, or legal counsel for either who: (a) documents the relationship with the Applicant or Responsible Person or Entity; or (b) is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

(1) Any appeal must be Submitted in Writing to the City Recorder with a copy to the License Officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

(2) Upon request of the Applicant or Registered Solicitor, within one business day, the City shall make available upon request any information upon which it relied in making the determination to either deny or suspend the Certificate.

(3) The Appeals Officer shall review, de novo, all written information submitted by the Applicant or Registered Solicitor to the Licensing Officer, any additional information relied upon by the Licensing Officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, Applicant or Registered Solicitor. Any additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.

(4) The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 17-22-115(3), the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

(a) The denial or suspension of the Certificate shall be reversed by the Appeals Officer if upon review of the written appeal and information submitted, the Appeals Officer finds that the Licensing Officer made a material mistake of law or fact in denying or suspending the Applicant or Registered Solicitor's Certificate.

(b) If the written appeal and information submitted indicates that the Licensing Officer properly denied or suspended the certificate of the Applicant or Registered Solicitor, the denial or suspension of the Certificate shall be affirmed and constitute a determination that the suspended Certificate is revoked. The

Licensing Officer shall submit his or her affirmation in writing setting forth the factual reason(s) for the affirmation.

(c) The decision of the Appeals Officer shall be delivered to the Applicant or Registered Solicitor by the means designated in the completed Application, or as otherwise agreed upon when the Appeal was filed.

(5) After the ruling of the Appeals Officer, the Applicant or Solicitor is deemed to have exhausted all administrative remedies with the City.

(6) Nothing herein shall impede or interfere with the Applicant's, Solicitor's, or City's right to seek relief in a court of competent jurisdiction.

#### **17-22-116. DECEPTIVE SOLICITING PRACTICES PROHIBITED.**

(1) No Solicitor shall intentionally make any materially false or fraudulent statement in the course of Soliciting.

(2) A Solicitor shall immediately disclose to the consumer during face-to-face Solicitation;

(a) the name of the Solicitor;

(b) the name and address of the entity with whom the Solicitor is associated; and

(c) the purpose of the Solicitor's contact with the person and/or Competent Individual. This requirement may be satisfied through the use of the Badge and an informational flyer.

(3) No Solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

(4) No Solicitor shall represent directly or by implication that the granting of a Certificate of Registration implies any endorsement by the City of the Solicitor's Goods or Services or of the individual Solicitor.

#### **17-22-117. "NO SOLICITATION" NOTICE.**

(1) Any occupant of a Residence may give notice of a desire to refuse Solicitors by displaying a "No Solicitation" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the Residence.

(2) The display of such sign or placard shall be deemed to constitute notice to any Solicitor that the inhabitant of the Residence does not desire to receive and/or does not invite Solicitors.

(3) It shall be the responsibility of the Solicitor to check each Residence for the presence of any such Notice.

(4) The provisions of this Section shall apply also to Solicitors who are exempt from Registration pursuant to the provisions of this Chapter.

#### **17-22-118. DUTIES OF SOLICITORS.**

(1) Every person Soliciting or Advocating shall check each Residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted such Solicitor shall desist from any efforts to Solicit at the Residence or dwelling and shall immediately depart from such property. Possession of a Certificate of Registration does not in any way relieve any Solicitor of this duty.

(2) It is a violation of this Chapter for any person Soliciting or Advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a Residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in Advocating, a Home Solicitation Sale, Door-to-Door Soliciting, or Soliciting;

(3) It is a violation of this Chapter for any Solicitor through ruse, deception, or fraudulent



concealment of a purpose to Solicit, to take action calculated to secure an audience with an occupant at a Residence;

(4) Any Solicitor who is at any time asked by an occupant of a Residence or dwelling to leave shall immediately and peacefully depart;

(5) The Solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent;

(6) The Solicitor shall not follow a person into a Residence without the resident's explicit consent;

(7) The Solicitor shall not continue repeated Soliciting after a person and/or Competent Individual has communicated clearly and unequivocally his or her lack of interest in the subject, Goods or Services of the Solicitor;

(8) The Solicitor shall not use obscene language or gestures.

#### **17-22-119. TIME OF DAY RESTRICTIONS.**

It shall be unlawful for any person, whether licensed or not, to Solicit at a Residence before 9:00 a.m. or after 9:00 p.m. Mountain Time, unless the Solicitor has express prior permission from the resident to do so.

#### **17-22-120. BUYER'S RIGHT TO CANCEL.**

In any Home Solicitation Sale, unless the buyer requests the Solicitor to provide Goods or Services without delay in an emergency, the seller or Solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by ' 70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any State or Federal law modifying or amending such provision.

#### **17-22-121. PENALTIES.**

Any person who violates any term or provision of this Chapter shall be guilty of a Class B Misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and/or a jail sentence of not to exceed six (6) months.

**Section 4. Severability.** If any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

**Section 5. Effective Date.** This Ordinance shall take effect immediately upon posting in the manner required by law.

1666 **PASSED and APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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WEST VALLEY CITY

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MAYOR

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CITY RECORDER

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